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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/714,769	11/17/2003	Thorsten Brausen	BRAUSEN-1	2424
25889	7590	05/03/2006	EXAMINER	
WILLIAM COLLARD COLLARD & ROE, P.C. 1077 NORTHERN BOULEVARD ROSLYN, NY 11576			MATHEW, FENN C	
			ART UNIT	PAPER NUMBER
			3764	

DATE MAILED: 05/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/714,769	BRAUSEN, THORSTEN	
	Examiner	Art Unit	
	Fenn C. Mathew	3764	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 November 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>11/17/03</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 2, and 4 are rejected under 35 U.S.C. 102(e) as being anticipated by Galbraith et al. (U.S. 6,817,968). Referring to claim 1, Galbraith teaches an exercise device comprising a frame (12), a seating surface (20), at least one foot rest (26) coupled to the frame (via rod), being adjustable in a position in relation to the seating surface in relation to a user's body dimensions (col. 10, lines 30-42), at least one rod (22) rotatably coupled to the frame, at least one stress application unit (28) coupled to the rod at one end (via cable 30), wherein the rod is biased in a first position by said stress application unit and rotatable to at least a second position against a prestress force from the at least one stress application unit. Referring to claim 2, as broadly claimed, Galbraith teaches the stress application unit comprising a spring (col. 9, lines 15-20) coupled to a pre-stress device (196). Referring to claim 4, Galbraith teaches an exercise device comprising a frame (12), a seating surface (20), at least one foot rest (26) coupled to the frame (via rod), being adjustable in a position in relation to the seating surface in relation to a user's body dimensions (col. 10, lines 30-42), at least one bearing (252), at least one rod (22) rotatably coupled to the frame via the bearing, wherein the rod has a first end and a second end, wherein the rod has at least two

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sections with a first longer section being disposed between said first end and the bearing, and a shorter second section being disposed between the second end and the bearing, at least one stress application unit (28) coupled to the rod at one end (via cable 30), wherein the rod is biased in a first position by said stress application unit and rotatable to at least a second position against a pre-stress force from the at least one stress application unit.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Galbraith et al. in view of Owens (U.S. 4,934,692). Galbraith teaches the claimed invention but lacks a pre-stress device including an electronic controller for controlling a level of pre-stressed tension of the stress application unit. Owens teaches in column 3, lines 1-10, 45-55, and 57-62, the desirability of having an electronic controller (motor) for controlling the level of pre-stressed tension in order to allow a user to vary resistance to exercise. It would have been obvious to one of ordinary skill in the art at the time of invention to provide the Galbraith device with an electronic controller serving as a pre-stress device for the stress application unit (spring) in order to allow a user to vary the amount of resistance.

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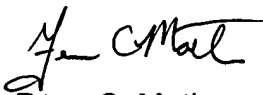
Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Bolf (U.S. 5,913,752) teaches a rod rotatably connected to a frame, and shocks that bias the rod in a position. Goldman (U.S. 5,716,330) teaches a spring attached to a motor in an exercise device.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fenn C. Mathew whose telephone number is (571) 272-4978. The examiner can normally be reached on Monday - Friday 9:00am - 5:30pm.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Fenn C. Mathew
May 1, 2006